



Environmental Remediation, Infrastructure Construction, Facility Support Services

TO: Prospective Offeror

DATE: June 28, 2016

RE: Request for Proposal (RFP) Number EPS21501-0023-004 for Laboratory Services at the Niagara Falls Boulevard Site in Niagara Falls, NY.

Guardian Environmental Services Company, Inc. (GES) has identified your company as a potential vendor for the referenced acquisition for the above referenced solicitation.

Your firm is hereby requested to submit a proposal in response to this solicitation. Responses to this solicitation must be submitted by 12:00 pm Tuesday, July 5, 2016 to be considered for award. Emailed proposals are acceptable for this solicitation.

BASIS FOR CONTRACT AWARD

The Subcontract award will be based on scheduling availability, technical capability, cost, and past performance. The technical evaluation will include a review of bidders' general qualifications and the information requested in this RFP. Proposals should be submitted in the most favorable terms, from a price and technical standpoint, as an award may be made on the basis of the proposal submitted and without further discussion. GES reserves the right to accept or reject all or part of any bid and to waive any and all formalities whenever in the best interest of GES.

GES reserves the right to award multiple and/or partial contracts for this solicitation or cancel this proposal at any time and does not commit itself or the U.S. Government to pay for any costs incurred in the preparation and submission of a proposal. This document is neither a Purchase Order nor a Subcontract. Submission of a proposal does not in any way guarantee award of a Purchase Order or Subcontract.

Response submittals should be sent to:

Janelle Kite
Guardian Environmental Services
Company, Inc.
70 Albe Drive
Newark, Delaware 19702
Fax: (302) 834-1959
Email jkite@gesoncall.com

If you have any questions regarding this solicitation, please contact Janelle Kite at 302-518-1917.

Sincerely,

A handwritten signature in cursive script that reads "Janelle M. Kite". The signature is written in black ink on a white background. Below the signature, there is a horizontal line.

Janelle Kite
Transportation & Disposal Coordinator

EXHIBIT A

Request for Proposal

RFP No. EPS21501-0023-004

Laboratory Services

Niagara Falls Boulevard Site

Niagara Falls, NY

June 28, 2016



Statement of Work

Title: Laboratory Analytical Services

Date: June 28, 2016

Proposal No.: EPS21501-0023-004

1. Overview

Guardian Environmental Services Company, Inc. is the prime contractor for the U.S. EPA Region II, at the Niagara Falls Boulevard site. GES is soliciting pricing from vendors for laboratory analytical services. Sampling will be performed to characterize contamination existing at the site. The data generated from the sampling and analysis activities will be used to: (1) identify types and concentrations of contaminants, (2) characterize waste streams for disposal and (3) calculate waste volumes for determining subsequent waste management options. Samples will typically be analyzed for target compound list and target analyte list (TCL/TAL) or TCLP RCRA characteristics and may include additional waste disposal parameters depending on type of waste management, treatability studies and/or engineering practices to be employed at the site. The analytical data generated from these sampling events will be evaluated against Federal Action Levels.

2. Site Information

Site Name: Niagara Falls Boulevard Site

Street Address: 9540 Niagara Falls Boulevard, Niagara Falls, NY 14304

3. Description

The Scope of Services required under this RFP is for the subcontractor to provide all labor, equipment, materials, supplies, and permits necessary to ship and perform laboratory analysis on samples collected from the Niagara Falls Boulevard EPA site. **All samples should be considered hazardous waste and should be handled appropriately. Sample material may require extensive preparatory clean up procedures prior to required analyses, at no additional cost to GES.** Since this Superfund cleanup consists of handling and identifying unknown quantities of unknown materials, GES cannot determine the exact number of samples requiring analysis or all of the analyses which may be required. However, GES anticipates the amount of analysis required to be close to those stated below. Although the analysis actually requested may vary as more information is obtained, the prices obtained in this competitive bid will be used to choose a laboratory for analytical services needed for this project.

4. Schedule

Schedule will be finalized after award of the project however a tentative schedule for the successful bidding laboratory is to be ready to transport sampling containers at the time of award and provide courier (or shipping services if courier is not available) and receive samples at the during the week of July 11, 2016. **The required turnaround time on the analytical summary will be 5 working days from the laboratory sample receipt logged on the sample chain-of-custody, and full data package deliverables**

within 21 days of sample receipt with the exception of Radium-226 due to the necessary in-growth period. See the section entitled Liquidated Damages for penalties associated with missing this schedule. Prices must remain in effect for 90 days.

5. Data Deliverables

Laboratory analytical data packages should be delivered electronically to Janelle Kite at jkite@gesoncall.com in PDF format. Analytical data packages are to meet EPA Level II definitive, data deliverable requirements. Where client supplied QC samples are required by GES, GES will collect and submit discrete samples identified as duplicates.

Detection limits for Line Items 1 through 5, must not exceed 75% of RCRA TCLP regulatory levels. Detection limits for PCB analysis (Line Item 8) must not exceed 1 mg/Kg in soil matrices and 1 mg/L in water in water matrices. Detection limits for the remaining Line Items must not exceed the Practical Quantitation Limits for the referenced methods. Results for sludge, soil, and sediment samples **shall** be reported on a dry weight basis.

In the event of matrix interferences where the required detection limits cannot be met, the laboratory shall contact GES immediately and submit proof of cleanup and dilution procedures, and/or documentation (e.g., chromatographs) of interferences encountered.

For Final Report, analytical results **must** be reported per sample, not per analytical parameter (i.e., all parameters analyzed on one sample must be reported together as a sample). For Preliminary Report, analytical results **must** be reported per sample, not per analytical parameter (i.e., all parameters analyzed on one sample must be reported together as a sample).

Full data package deliverables will include at a minimum the following information

- ☐ Cross reference sample I.D.; Laboratory/client
- ☐ Sample holding times
- ☐ Detection limits and qualifiers
- ☐ Internal and external chain of custody documentation
- ☐ Initial and continuing calibration data
- ☐ Interference check sample (ICP)
- ☐ ICP serial dilution
- ☐ Initial and continuing blank data (inorganics)
- ☐ Method blank data
- ☐ Surrogate spike data with control limits
- ☐ Matrix spike/matrix spike duplicate with control limits (organics)– BATCH QC
- ☐ Matrix spike and duplicate with control limits (inorganics)– BATCH QC
- ☐ Internal standard area count and retention time
- ☐ GC/MS tuning criteria
- ☐ Furnace atomic absorption data;
- ☐ Second column GC confirmation data
- ☐ Raw data
- ☐ A case narrative to include cleanup and dilution procedures, interferences encountered and a sample results summary

6. Laboratory Provisions

Sampling Supplies and Containers

The laboratory will be contacted approximately 2 days prior to sampling to order sampling containers. Delivery or shipment of sampling containers may be shipped or couriered. The contracting laboratory will provide the appropriate number of wide mouth sampling containers for the final, to be determined, analytical parameters for each waste sample and the associated packaging supplies including Chains of Custody forms. To allow for possible breakage as is customary, the laboratory will provide an additional container allowance of up to 10% of the number of containers ordered by GES. Proper packaging and packaging instructions will be provided for each shipment cooler. Sampling containers and courier or shipping costs are to be included within the analyses pricing.

Courier Service

The laboratory will provide courier service. If courier service is not available, please note this in your bid and provide shipping information. GES will notify the laboratory of a sampling event a minimum of 24 hours before sampling is initiated. Courier or shipping costs should be included in the analyses pricing.

Additional Requirements

All Samples and extracts will be held in a controlled environment for a period of no less than 2 months from sample collection. Costs for shipment and disposal of samples must be included in the above referenced pricing. **The laboratory is responsible for the final disposal of all samples.**

The above referenced pricing must be specific to the RFP required turnaround time for the analytical data package. The turnaround time begins with the date that a representative from the laboratory signs the "samples received" section of the supplied Chain of Custody Record accompanying the samples.

Liquidated Damages

For any delay in the receipt of summary results (5 day TAT) from the laboratory, not due to acts of GES, EPA or other factors outside the subcontractors control (inclement weather, floods, acts of war, etc.) a reduction in the total charge for services will be \$20.00 per day per sample, for each additional day until all correct and complete data reports are received. For any delay in the receipt of the final data packages, a reduction of \$50.00 per week per chain of custody/sample group will be invoked. If major problems are found in the sample data, due to laboratory error which would reject the data from use, no payment will be made for each rejected sample and the laboratory will be responsible for any additional costs incurred for resolution of the problem. If liquidated damages are invoked GES will deduct the charges from the subcontractors invoice prior to payment.

7. Subcontractors

In the event that the laboratory needs to subcontract for specialty analyses not performed or to meet turn-around or capacity requirements, GES shall be notified of the subcontractor for prequalification purposes. The subcontracting lab shall be held to the requirements as specified in the RFP.

8. Invoicing

PLEASE NOTE THAT WE REQUIRE DIRECT INVOICING AND THAT PAYMENT TERMS ARE 10 DAYS AFTER CLIENT (EPA) PAY, USUALLY ABOUT 60 DAYS INSTEAD OF 30 NET, AS LONG AS INVOICES ARE SUBMITTED PROMPTLY.

A purchase order number is required to be on all invoices. Please be sure to obtain the number from the GES associate at the time of order. Invoices received without a purchase order or subcontract number WILL NOT be processed.

For faster processing of your invoices, you can submit them via email to ap@gesoncall.com.

Please do not mail a copy when submitting your invoice by email. Faxed copies will no longer be accepted unless specifically requested by GES.

Exhibit B
Rate Sheet

Rate Sheet for RFP EPS21501-0023-004

For the Statement of Work described, the price must be given in the format specified below. The price must be provided in the format specified below.

Item	Parameter	Method Reference	Approximate Sample Quantity	Unit Measure	Unit Price	Extended Price*
1	TCLP Volatile Organics	1311; 8260C ¹	0 – 40	Each	\$	\$
2	TCLP Semivolatile Organics	1311; 8270D ¹	0 – 40	Each	\$	\$
3	TCLP Metals (including Nickel and Beryllium)	1311; 6010C/7470A/7471B/7010 series, 6010B	0 – 40	Each	\$	\$
4	TCLP Herbicides	1311; 8151A ¹	0 – 40	Each	\$	\$
5	TCLP Pesticides	1311; 8081 ¹	0 – 40	Each	\$	\$
6	TCL Volatiles	8260C ¹	0 – 40	Each	\$	\$
7	TCL Semivolatiles	8270D ¹	0 – 40	Each	\$	\$
8	PCBs (soil)	8082A ¹	0 – 40	Each	\$	\$
9	Target Analyte List (ILM05.4TAL) metals	6010C/7470A/7471B/7010 series, 6010B	0 – 40	Each	\$	\$
10	Ignitability (flashpoint)	EPA 1010A/1020B	0 – 40	Each	\$	\$
11	Corrosivity pH Measurement	EPA 9040C, 9045D	0 – 40	Each	\$	\$
12	Reactive Cyanide Reactive Sulfide	SW-846 7.3.3.2, 7.3.4.2	0 – 40	Each	\$	\$
13	Total Petroleum Hydrocarbons	1664 Rev. A	0 – 40	Each	\$	\$
14	Total Organic Halogens (TOX)	9020B	0 – 40	Each	\$	\$
15	Paint Filter Test / Free Liquids	9095B	0 – 40	Each	\$	\$
16	Percent Moisture	ASTM D2216	0 – 40	Each	\$	\$
17	TCL Herbicides	8151A	0 – 40	Each	\$	\$
18	TCL Pesticides	8081	0 – 40	Each	\$	\$

19	Determination of Radium-226	EPA 903.1	0 – 20	Each	\$	\$
20	Determination of Radium-228	EPA 903.1	0 – 20	Each	\$	\$
21	Determination of Thorium-228	HSL-300	0 – 20	Each	\$	\$
22	Determination of Thorium-230	HSL-300	0 – 20	Each	\$	\$
23	Determination of Thorium-232	HSL-300	0 – 20	Each	\$	\$
Grand Total						\$

Note: All prices should be shown in U.S. dollars and will remain valid for 90 days from the date of this offer.

1. Method 8000C shall be applied in conjunction with all SW-846 determinative chromatographic methods.

Notes:

1. Additional Parameters may be deemed necessary at a later date.
2. Sample material may require extensive preparatory clean up procedures prior to required analyses, at no additional cost to GES.
3. The subcontract laboratory is responsible for supplying all necessary sample containers to the site within 48 hours of GES's request, and must be labeled by waste stream.
4. The subcontract laboratory is responsible for the courier service or when courier service is not feasible, shipping of samples from the site to laboratory facility. Pricing must include all fees, costs of analysis, and any other costs. GES will not pay any costs outside of the prices shown.

Modifications to the bid form will deem your offer as non-responsive and the offer will be disqualified. Therefore, include pricing on each of the line items, per the unit(s), and shown and described in the Statement of Work. However, if any type of sales or use tax applies, list that separately at the bottom of the pricing page.

** Please extend your bid price to the highest quantity*

Signature below means that the bidder has read and understands this bid package and is willing to execute a GES services agreement without changes. **The signatory must have the authority to bind the bidding company.** The signature also means that all statements in this bid are accurate and truthful.

Company Name

Authorized Representative Signature

Date

Signatory Name and Title

PAST PERFORMANCE QUESTIONNAIRE

Vendor Name: _____
RFP No.: **EPS21501-0023-004**

The following provides information on at least three (3) contacts that the Offeror has completed in the past three years and that are similar in nature to the work required under this RFP.

PROJECT 1	
CLIENT NAME	
CLIENT ADDRESS	
CONTRACT NUMBER	
DESCRIPTION	
CONTRACT VALUE	
PERFORMANCE PERIOD	
POINT OF CONTACT	
PHONE NUMBER	

PROJECT 2	
CLIENT NAME	
CLIENT ADDRESS	
CONTRACT NUMBER	
DESCRIPTION	
CONTRACT VALUE	
PERFORMANCE PERIOD	
POINT OF CONTACT	
PHONE NUMBER	

PROJECT 3	
CLIENT NAME	
CLIENT ADDRESS	
CONTRACT NUMBER	
DESCRIPTION	
CONTRACT VALUE	
PERFORMANCE PERIOD	
POINT OF CONTACT	
PHONE NUMBER	

OFFEROR REPRESENTATIONS AND CERTIFICATIONS

OFFEROR REPRESENTATIONS AND CERTIFICATIONS

**RFP/SUBCONTRACT
NUMBER**

EPS21501-0023-004

Name of Offeror

Offeror DUNS Number

Parent Company

**Parent Company DUNS
Number**

Physical Address

include nine digit zip

Congressional District

Primary Performance Location

include nine digit zip

Congressional District

**TAS (Treasury Account Symbol) in
FPDS**

NAICS Code

Number of Employees

Point of Contact

Telephone

Fax

Email

BUSINESS CLASSIFICATION:

You may review the definition for the following categories in the Federal Acquisition Regulation 19.7 or in Certification Number 7. Small Business Program Representations in Part I of this document. Title 13 CFR 121.410 and 121.411 provide guidance on size standards for the subcontracting program. If you have difficulty in determining your size standard, please call 1-800-U-ASK-SBA or refer to SBA's website at www.sba.gov.

- ☐ Large Business
- ☐ Small Business
- ☐ Small Disadvantaged Business
- ☐ Woman Owned Business
- ☐ HUBZone Small Business
- ☐ Veteran-Owned Small Business
- ☐ Service Disabled Veteran-Owned Small Business
- ☐ HBCU
- ☐ Alaska Native Corporation (ANC) (see 43 U.S.C. 1601, *et seq.*)
- ☐ Indian Tribe

Under 15 U.S.C. 646(d), any person who misrepresents its size standard shall (1) be punished by fine, imprisonment, or both, (2) be subject to administrative remedies; and (3) be ineligible for participation in programs conducted under the authority of the Small Business Act.

The following Offeror Representations and Certifications are required as part of this submission:

- ☐ PART I - OFFEROR REPRESENTATIONS AND CERTIFICATIONS
- ☐ PART II - ENVIRONMENTAL PROTECTION AGENCY SUPPLEMENT

By signing below, the Offeror certifies, under the penalty of law, that the Representations and Certifications are accurate, current and complete. The Offeror further certifies that it will notify the Subcontracts Manager of any changes to these Representations and Certifications

Signature of Authorized Representative

Date

Typed Name and Title

**OFFEROR REPRESENTATIONS AND CERTIFICATIONS
PART I - TABLE OF CONTENTS**

ALL OF THE FOLLOWING OFFEROR REPRESENTATIONS AND CERTIFICATIONS
MUST BE
COMPLETED BY THE OFFEROR.

1. FAR 52.203-2 Certificate of Independent Price Determination (April 1985)
2. FAR 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain
Federal Transactions (September 2007)
3. FAR 52.204-3 Taxpayer Identification (October 1998)
4. FAR 52.204-5 Women-Owned Business (Other Than Small Business) (May
1999)
5. FAR 52.204-10 Reporting Executive Compensation and First -Tier Subcontract Awards
(July 2010)
6. FAR 52.209-5 Certification Regarding Responsibility Matters (December 2008)
7. FAR 52.215-6 Place of Performance (October 1997)
8. FAR 52.219-1 Small Business Program Representations (May 2004)
9. FAR 52.222-18 Certification Regarding Knowledge of Child Labor for Listed End
Products (Feb. 2001)
10. FAR 52.222-22 Previous Contracts and Compliance Reports (February 1999)
11. FAR 52.222-25 Affirmative Action Compliance (April 1984)
12. FAR 52.222-38 Compliance with Veterans' Employment Reporting (December 2001)
13. FAR 52.222-48 Exemption from Application of the Service Contract Act to Subcontracts
for Maintenance, Calibration, or Repair of Certain Equipment - Certification
(November 2007)
14. FAR 52.222-52 Exemption from Application of the Service Contract Act to Subcontracts
for Certain Services – Certification (November 2007)
15. FAR 52.223-1 Biobased Product Certification (December 2007)
16. FAR 52.223-4 Recovered Metals Certification (May 2008)
17. FAR 52.225-2 Buy American Act Certificate (June 2003)
18. FAR 52.225-4 Buy American Act – Free Trade Agreements – Israeli Trade Act
Certificate

(August 2007)

- 19. FAR 52.225-6 Trade Agreements Certificate (January 2005)
- 20. FAR 52.225-18 Place of Manufacture (September 2006)
- 21. FAR 52.225-20 Prohibition on Conducting Restricted Business Operations in Sudan –
Certification (June 2008)
- 22. FAR 52.226-2 Historically Black College or University and Minority Institution
Representation
(October 2008)
- 23. FAR 52.227-6 Royalty Information (April 1984)
- 24. FAR 52.227-15 Representation of Limited Rights Data and Restricted Computer Software
(December 2007)
- 25. FAR 52.230-1 Cost Accounting Standards Notices and Certification (October) (over
\$650,000)
- 26. N/A Certification Regarding Facilities Capital Cost of Money
- 27. N/A Authorized Negotiators
- 28. N/A System Approvals
- 29. N/A Conflict of Interest Certification

PART I
OFFEROR REPRESENTATIONS AND CERTIFICATIONS

**1. FAR 52.203 -2 CERTIFICATE OF INDEPENDENT PRICE DETERMINATION
(APRIL 1985)**

(a) The offeror certifies that--

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to (i) those prices, (ii) the intention to submit an offer, or (iii) the methods or factors used to calculate the prices offered;

(2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or subcontract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory--

(1) Is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or

(2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above.

(c) If the offeror deletes or modifies subparagraph (a)(2) above, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

**2. FAR 52.203 -11 CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS
TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (over \$100,000)
(SEPTEMBER 2007)**

(a) *Definitions.* As used in this provision —“Lobbying contact” has the meaning provided at 2 U.S.C. 1602(8). The terms “agency,” “influencing or attempting to influence,” “officer or employee of an agency,”

“person,” “reasonable compensation,” and “regularly employed” are defined in the FAR clause of this solicitation entitled “Limitation on Payments to Influence Certain Federal Transactions” (52.203-12).

(b) *Prohibition.* The prohibition and exceptions contained in the FAR clause of this solicitation entitled “Limitation on Payments to Influence Certain Federal Transactions” (52.203-12) are hereby incorporated by reference in this provision.

(c) *Certification.* The offeror, by signing its offer, hereby certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on its behalf in connection with the awarding of this contract.

(d) *Disclosure.* If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, the offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The offeror need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

e) *Penalty.* Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by 31 U.S.C. 1352. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure required to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

3. FAR 52.204-3 TAXPAYER IDENTIFICATION (OCTOBER 1998)

(a) Definitions.

"Common Parent," as used in this solicitation provision, means that corporate identity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.

"Taxpayer Identification Number (TIN)," as used in this solicitation provision, means the number required by the IRS to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

(b) All offerors are required to submit the information required in paragraphs (d) through (f) of this provision in order to comply with requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the Internal Revenue Service (IRS). If the resulting subcontract is subject to the reporting requirements described in FAR 4.904, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the subcontract.

(c) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship by the Government (31 U.S.C. 7701(c)(3)). If the resulting subcontract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(d) Taxpayer Identification Number (TIN).

☐ TIN: _____

☐ TIN has been applied for

☐ TIN is not required because:

☐ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the U.S. and does not have an office or place of business or a fiscal paying agent in the U.S.:

☐ Offeror is an agency or instrumentality of a foreign government

☐ Offeror is an agency or instrumentality of a Federal government

(e) Type of organization

☐ Sole proprietorship;

☐ Corporate entity (not tax exempt);

☐ Corporate entity (tax exempt);

☐ Government entity;

☐ Foreign Government

☐ International organization per CFR 1.6049-4

☐ Partnership

(f) Common Parent

☐ Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this provision

☐ Name and TIN of common parent

Name _____

TIN _____

**4. FAR 52.204 -5 WOMEN -OWNED BUSINESS (OTHER THAN SMALL BUSINESS)
(MAY 1999)**

(a) *Definition.* "Women-owned business concern" as used in this provision, means a concern which is at least 51 percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent of the stock is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

(b) *Representation.* [Complete only if the offeror is a women -owned business concern and has not represented itself as a small business concern under FAR 52.21902]. The offeror represents that it [] is a woman-owned business concern.

**5. FAR 52.204 -10 REPORTING EXECUTIVE COMPENSATION AND FIRST -TIER
SUBCONTRACT AWARDS**

(a) (1) The Offeror certifies, to the best of its knowledge and belief, that--

(i) The Offeror in the preceding fiscal year --

(A) Did [] / did not [] receive 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and

(B) Did [] / did not [] \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and

(C) The public does [] / does not [] have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

**6. FAR 52.209 -5 CERTIFICATION REGARDING RESPONSIBILITY MATTERS
(DECEMBER 2008)**

(a) (1) The Offeror certifies, to the best of its knowledge and belief, that--

(i) The Offeror and/or any of its Principals--

(A) Are [] / are not [] presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) Have [] / have not [], within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(C) Are [] / are not [] presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subdivision (a)(1)(i)(B) of this provision; and

(D) Have [], have not [], within a three -year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,000 for which the liability remains unsatisfied.

(1) Federal taxes are considered delinquent if both of the following criteria apply:

(i) *The tax liability is finally determined* . The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

(ii) *The taxpayer is delinquent in making payment* . A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was

due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

(2) *Examples.*

(i) The taxpayer has received a statutory notice of deficiency, under I.R.C. § 6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(ii) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. § 6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(iii) The taxpayer has entered into an installment agreement pursuant to I.R.C. § 6159. The taxpayer is making timely payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment.

(iv) The taxpayer has filed for bankruptcy protection. The taxpayer is not delinquent because enforced collection action is stayed under 11 U.S.C. 362 (the Bankruptcy Code).

(ii) The Offeror has [] / has not [], within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) "Principal," for the purposes of this certification, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under section 1001, Title 18, United States Code.

(b) The Offeror shall provide immediate written notice to the Purchaser Subcontract Manager if, at any time prior to subcontract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government or Purchaser, the Purchaser may terminate the subcontract resulting from this solicitation for default.

7. FAR 52.215-6 PLACE OF PERFORMANCE (OCTOBER 1997)

(a) The offeror or quoter, in the performance of any subcontract resulting from this solicitation, ☐ intends / ☐ does not intend (check applicable block) to use one or more plants or facilities located at a different address from the address of the offeror or quoter as indicated in this proposal or quotation.

(b) If the offeror or quoter checks "intends" in paragraph (a) above, it shall insert in the spaces provided below the required information:

Place of Performance (Street, City, State, Zip Code)	Name and Address of Owner and Operator of Plant or Facility if Different from Offeror

8. FAR 52.219-1 SMALL BUSINESS PROGRAM REPRESENTATIONS (MAY 2004)

(a) (1) The North American Industry Classification System (NAICS) code for this acquisition is _____ [insert NAICS code].

(2) The small business size standard is _____ [insert size standard].

(3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

(b) Representations.

(1) The offeror represents as part of its offer that it ☐ is, ☐ is not a small business concern.

(2) [Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.] The offeror represents, for general statistical purposes, that it ☐ is, ☐ is not, a small disadvantaged business concern as defined in 13 CFR 124.1002.

(3) [Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.] This offeror represents as part of its offer that it ☐ is, ☐ is not a women-owned small business concern.

(4) [Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.] The offeror represents as part of its offer that it ☐ is, ☐ is not a veteran-owned small business concern.

(5) [Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (b)(4) of this provision.] The offeror represents as part of its offer that it ☐ is, ☐ is not a service-disabled veteran-owned small business concern.

(6) [Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision,] The offeror represents, as part of its offer, that -

(i) It ☐ is, ☐ is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and

control, principal office, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR part 126; and

(ii) It [] is, [] is not a joint venture that complies with the requirements of 13 CFR part 126, and the representation in paragraph (b)(6)(i) of this provision is accurate for the HUBZone small business concerns that are participating in the joint venture. [*The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture:* _____.] Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

(7) [Complete if offeror represented itself as disadvantaged in paragraph (b)(2) of this provision] The offeror shall check the category in which its ownership falls:

_____ Black American
_____ Hispanic American
_____ Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians)
_____ Asian -Pacific American (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, U.S. Trust Territory of the Pacific Islands (Republic of Palua), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Maura).
_____ Subcontinent Asian (Asian -Indian) American (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal).
_____ Individual/concern, other than one of the preceding.

(c) Definitions. As used in this provision –

“Service-disabled veteran-owned small business concern” –

(1) Means a small business concern –

(i) Not less than 51 percent of which is owned by one or more service disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service -disabled veterans or, in the case of a service -disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

“Small business concern” means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Purchaser contracts, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (a) of this provision.

“Veteran-owned small business concern” means a small business concern –

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

“Women-owned small business concern” means a small business concern –

(1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

(d) Notice.

(1) If this solicitation is for supplies and has been set aside, in whole or in part, for small business concerns, then the clause in this solicitation providing notice of the set -aside contains restrictions on the source of the end items to be furnished.

(2) Under 15 U.S.C. 645(d), any person who misrepresents a firm’s status as a small, HUBZone small, small disadvantaged, or women -owned small business concern in order to obtain a contract to be awarded under the preference programs established pursuant to section 8(a), 8(d), 9, or 15 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall –

(i) Be punished by imposition of fine, imprisonment, or both;

(ii) Be subject to administrative remedies, including suspension and debarment; and

(iii) Be ineligible for participation in programs conducted under the authority of the Act.

9. 52.222-18 CERTIFICATION REGARDING KNOWLEDGE OF CHILD LABOR FOR LISTED END PRODUCTS (FEBRUARY 2001)

(a) *Definition.*

“Forced or indentured child labor” means all work or service—

(1) Exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or

(2) Performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.

(b) *Listed end products* . The following end product(s) being acquired under this solicitation is (are) included in the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor, identified by their country of origin. There is a reasonable basis to believe that listed end products from the listed countries of origin may have been mined, produced, or manufactured by forced or indentured child labor.

Listed End Product Listed Countries of Origin

(c) *Certification.* The Government will not make award to an offeror unless the offeror, by checking the appropriate block, certifies to either paragraph (c)(1) or paragraph (c)(2) of this provision.

☐ (1) The offeror will not supply any end product listed in paragraph (b) of this provision that was mined, produced, or manufactured in a corresponding country as listed for that end product.

☐ (2) The offeror may supply an end product listed in paragraph (b) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product. The offeror certifies that it has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture such end product. On the basis of those efforts, the offeror certifies that it is not aware of any such use of child labor.

10. FAR 52.222 -22 PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (FEBRUARY 1999)

The offeror represents that –

(a) It ☐ has, ☐ has not participated in a previous contract or subcontract subject the Equal Opportunity clause of this solicitation;

(b) It ☐ has, ☐ has not filed all required compliance reports; and

(c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

11. FAR 52.222-25 AFFIRMATIVE ACTION COMPLIANCE (APRIL 1984)

The offeror represents that--

(a) It ☐ has developed and has on file / ☐ has not developed and does not have on file, at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2), or

(b) It ☐ has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

12. FAR 52.222 -38 COMPLIANCE WITH VETERANS' EMPLOYMENT REPORTING (DECEMBER 2001)

By submission of its offer, the offeror represents that, if it is subject to the reporting requirements of 38 U.S.C. 4212(d) (i.e., if it has any contract containing FAR clause 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans), it has submitted the most recent VETS-100 Report required by the clause.

13. FAR 52.222 -48 EXEMPTION FROM APPLICATION OF THE SERVICE CONTRACT ACT TO SUBCONTRACTS FOR MAINTENANCE, CALIBRATION, OR REPAIR OF CERTAIN EQUIPMENT – CERTIFICATION (NOVEMBER 2007)

(a) The offeror certifies [] does not certify [] that—

(1) The items of equipment to be serviced under this subcontract are used regularly for other than Government purposes, and are sold or traded by the offeror in substantial quantities to the general public in the course of normal business operations;

(2) The services will be furnished at prices which are , or are based on, established catalog or market prices for the maintenance, calibration, or repair of equipment.

(i) An “established catalog price” is a price included in a catalog, price list, schedule, or other form that is regularly maintained by the manufacturer or the offeror, is either published or otherwise available for inspection by customers, and states prices at which sales currently, or were last, made to a significant number of buyers constituting the general public.

(ii) An “established market price” is a current price, established in the usual course of trade between buyers and sellers free to bargain, which can be substantiated from sources independent of the manufacturer or offeror; and

(3) The compensation (wage and fringe benefits) plan for all service employees performing work under the subcontract are the same as that used for these employees and equivalent employees servicing the same equipment of commercial customers.

(b) Certification by the offeror as to its compliance with respect to the contract also constitutes its certification as to compliance by its subcontractor if it subcontracts out the exempt services. If the offeror certifies to the conditions in paragraph (a) of this provision, and the Purchaser determines in accordance with FAR 22.1003-4(c)(3) that the Service Contract Act—

(1) Will not apply to this offeror, then the Service Contract Act of 1965 clause in this solicitation will not be included in any resultant subcontract to this offeror; or

(2) Will apply to this offeror, then the clause at 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment -Requirements, in this solicitation will not be included in any resultant

subcontract awarded to this offeror, and the offeror may be provided an opportunity to submit a new offer on that basis.

(c) If the offeror does not certify to the conditions in paragraph (a) of this provision—

(1) The clause in this solicitation at 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements, will not be included in any resultant contract awarded to this offeror; and

(2) The offeror shall notify the Purchaser as soon as possible, if the Purchaser did not attach a Service Contract Act wage determination to the solicitation.

(d) The Purchaser may not make an award to the offeror, if the offeror fails to execute the certification in paragraph (a) of this provision or to contact the Purchaser as required in paragraph (c) of this provision.

14. FAR 52.222 -52 EXEMPTION FROM APPLICATION OF THE SERVICE CONTRACT ACT TO SUBCONTRACTS FOR CERTAIN SERVICES - CERTIFICATION (NOVEMBER 2007)

(a) The offeror shall check the following certification:
Certification

The offeror ☐ does / ☐ does not certify that—

(1) The services under the subcontract are offered and sold regularly to non-Governmental customers, and are provided by the offeror (or subcontractor in the case of an exempt subcontract) to the general public in substantial quantities in the course of normal business operations;

(2) The subcontract services are furnished at prices that are, or are based on, established catalog or market prices. An “established catalog price” is a price included in a catalog, price list, schedule, or other form that is regularly maintained by the manufacturer or the offeror, is either published or otherwise available for inspection by customers, and states prices at which sales currently, or were last, made to a significant number of buyers constituting the general public. An “established market price” is a current price, established in the usual course of ordinary and usual trade between buyers and sellers free to bargain, which can be substantiated from sources independent of the manufacturer or offeror;

(3) Each service employee who will perform the services under the contract will spend only a small portion of his or her time (a monthly average of less than 20 percent of the available hours on an annualized basis, or less than 20 percent of available hours during the contract period if the contract period is less than a month) servicing the Government subcontract; and

(4) The offeror uses the same compensation (wage and fringe benefits) plan for all service employees performing work under the _____ subcontract as the offeror uses for these employees and for equivalent employees servicing commercial customers.

(b) Certification by the offeror _____ as to its compliance with respect to the contract also constitutes its certification as to compliance by its subcontractor if it subcontracts out the exempt services. If the offeror certifies to the conditions in paragraph (a) of this provision, and the Purchaser determines in accordance with FAR 22.1003-4(d)(3) that the Service Contract Act—

(1) Will not apply to this offeror, then the Service Contract Act of 1965 _____ clause in this solicitation will not be included in any resultant contract to this offeror; or

(2) Will apply to this offeror, then the clause at FAR 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services —Requirements, in this solicitation will not be included in any resultant subcontract awarded to this offer, and the offeror may be provided an opportunity to submit a new offer on that basis.

(c) If the offeror does not certify to the conditions in paragraph (a) of this provision—

(1) The clause of this solicitation at 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services —Requirements, will not be included in any resultant subcontract to this offeror; and

(2) The offeror shall notify the Purchaser as soon as possible if the Purchaser did not attach a Service Contract Act wage determination to the solicitation.

(d) The Purchaser may not make an award to the offeror, if the offeror fails to execute the certification in paragraph (a) of this provision or to contact the _____ Purchaser as required in paragraph (c) of this provision.

15. FAR 52.223-1 BIOBASED PRODUCT CERTIFICATION (DECEMBER 2007)

As required by the Farm Security and Rural Investment Act of 2002 and the Energy Policy Act of 2005 (7 U.S.C. 8102(c)(3)), the offeror certifies, by signing this offer, that biobased products (within categories of products listed by the United States Department of Agriculture in 7 CFR part 2902, subpart B) to be used or delivered in the performance of the Subcontract, other than biobased products that are not purchased by the offeror as a direct result of this Subcontract, will comply with the applicable specifications or other contractual requirements.

16. FAR 52.223-4 RECOVERED METALS CERTIFICATION (MAY 2008)

As required by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6962(c)(3)(A)(i)), the offeror certifies, by signing this offer, that the percentage of recovered materials content for EPA -designated items to be delivered or used in the performance of the contract will be at least the amount required by the applicable subcontract specifications or other contractual requirements.

17. FAR 52.225-2 BUY AMERICAN ACT CERTIFICATE (JUNE 2003)

(a) The offeror certifies that each end product, except those listed in paragraph (b) of this provision, is a domestic end product and the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products. The terms "component," "domestic end product," "end product," "foreign end product," and "United States," are defined in the clause of the subcontract entitled "Buy American Act - Supplies."

(b) Foreign End Products:

LINE ITEM NO.

COUNTRY OF ORIGIN

[List as Necessary]

(c) The Purchaser will evaluate offers in accordance with the policies and procedures of Part 25 of the Federal Acquisition Regulation.

18. FAR 52.225-4 BUY AMERICAN ACT – FREE TRADE AGREEMENTS – ISRAELI TRADE ACT CERTIFICATE (AUGUST 2007)

(a) The offeror certifies that each end product, except those listed in paragraph (b) or (c) of this provision, is a domestic end product and that the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The terms "Bahrainian or Moroccan end product", "component," "domestic end product," "end product," "foreign end product," "Free Trade Agreement country," "Free Trade Agreement country end product," "Israeli end product," and "United States," are defined in the clause of the subcontract entitled "Buy American Act - Free Trade Agreements - Israeli Trade Act."

(b) The offeror certifies that the following supplies are Free Trade Agreement country end products (other than Bahrainian end product or Moroccan end products) or Israeli end products as defined in the clause of this solicitation entitled "Buy American Act – Free Trade Agreements – Israeli Trade Act":

Free Trade Agreement Country End Product (Other than Bahrainian End Products or Moroccan End Products) or Israeli End Products:

LINE ITEM NO

COUNTRY OF ORIGIN

[List as necessary]

(c) The offeror shall list those supplies that are foreign end products (other than those listed in paragraph (b) of this provision) as defined in the clause of this solicitation entitled "Buy American Act – Free Trade Agreements – Israeli Trade Act" The offeror shall list as other foreign end products those end products manufactured in the United States that do not qualify as domestic end products.

Other Foreign End Products:

LINE ITEM NO

COUNTRY OF ORIGIN

[List as necessary]

(d) The Purchaser will evaluate offers in accordance with the policies and procedures of Part 25 of the Federal Acquisition Regulation.

19. FAR 52.225-6 TRADE AGREEMENTS CERTIFICATE (JANUARY 2005)

(a) The offeror certifies that each end product, except those listed in paragraph (b) of this provision, is a U.S. -made, or designated end country product, as defined in the clause of the Subcontract entitled "Trade Agreements".

(b) The offeror shall list as other end products those supplies that are not U.S. -made, designated country, Caribbean Basin country, or FTA country end products.

Other End Products:

LINE ITEM NO

COUNTRY OF ORIGIN

[List as necessary]

(b) The Purchaser will evaluate offers in accordance with the policies and procedures of Part 25 of the Federal Acquisition Regulation. For line items covered by the WTO GPA, the Purchaser will evaluate offers of U.S.-made or designated country end products without regard to the restrictions of the Buy American Act . The Purchaser will consider for award only offers of U.S.-made or designated country end products unless the Purchaser's Subcontract Manager determines that there are no offers for such products or that the offers for such products are insufficient to fulfill the requirements of this solicitation.

20. FAR 52.225-18 PLACE OF MANUFACTURE (SEPTEMBER 2006)

(a) *Definitions.* As used in this clause—

“Manufactured end product” means any end product in Federal Supply Classes (FSC) 1000-9999, except—

- (1) FSC 5510, Lumber and Related Basic Wood Materials;
- (2) Federal Supply Group (FSG) 87, Agricultural Supplies;
- (3) FSG 88, Live Animals;
- (4) FSG 89, Food and Related Consumables;
- (5) FSC 9410, Crude Grades of Plant Materials;
- (6) FSC 9430, Miscellaneous Crude Animal Products, Inedible;
- (7) FSC 9440, Miscellaneous Crude Agricultural and Forestry Products;
- (8) FSC 9610, Ores;
- (9) FSC 9620, Minerals, Natural and Synthetic; and
- (10) FSC 9630, Additive Metal Materials.

“Place of manufacture” means the place where an end product is assembled out of components, or otherwise made or processed from raw materials into the finished product that is to be provided to the Government. If a product is disassembled and reassembled, the place of reassembly is not the place of manufacture.

(b) For statistical purposes only, the offeror shall indicate whether the place of manufacture of the end products it expects to provide in response to this solicitation is predominantly—

(1) ☐ In the United States (Check this box if the total anticipated price of offered end products manufactured in the United States exceeds the total anticipated price of offered end products manufactured outside the United States); or

(2) ☐ Outside the United States

(3) ☐ Nothing will be manufactured under this subcontract.

21. FAR 52.225 -20 PROHIBITION ON CONDUCTING RESTRICTED BUSINESS OPERATIONS IN SUDAN – CERTIFICATE (JUNE 208)

(a) *Definitions.* As used in this provision—

“Business operations” means engaging in commerce in any form, including by acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

“Marginalized populations of Sudan” means—

(1) Adversely affected groups in regions authorized to receive assistance under section 8(c) of the Darfur Peace and Accountability Act (Pub. L. 109 -344) (50 U.S.C. 1701 note); and

(2) Marginalized areas in Northern Sudan described in section 4(9) of such Act.

“Person” means—

(1) A natural person, corporation, company, business association, partnership, society, trust, any other nongovernmental entity, organization, or group;

(2) Any governmental entity or instrumentality of a government, including a multilateral development institution (as defined in section 1701(c)(3) of the International Financial Institutions Act (22 U.S.C. 262r(c)(3))); and

(3) Any successor, subunit, parent company or subsidiary of any entity described in paragraphs (1) or (2) of this definition.

“Restricted business operations” means business operations in Sudan that include power production activities, mineral extraction activities, oil -related activities, or the production of military equipment, as those terms are defined in the Sudan Accountability and Divestment Act of 2007 (Pub. L. 110-174). Restricted business operations do not include business operations that the person conducting the business can demonstrate—

(1) Are conducted under contract directly and exclusively with the regional government of southern Sudan;

(2) Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;

(3) Consist of providing goods or services to marginalized populations of Sudan;

(4) Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;

(5) Consist of providing goods or services that are used only to promote health or education; or

(6) Have been voluntarily suspended.

(b) *Certification.* By submission of its offer, the offeror certifies that it does not conduct any restricted business operations in Sudan.

22. FAR 52.226 -2 HISTORICALLY BLACK COLLEGE OR UNIVERSITY AND MINORITY INSTITUTION REPRESENTATION (OCTOBER 2008)

(a) Definitions. As used in this provision:

“Historically Black College or University” means an institution determined by the Secretary of Education to meet the requirements of 34 CFR 608.2. For the Department of Defense, NASA, and the Coast Guard, the term also includes any non -profit research institution that was an integral part of such a college or university before November 14, 1986.

“Minority Institution” means an institution of higher education meeting the requirements of Section 365(3) of the Higher Education Act of 1965 (20 U.S.C. 1067k, including a Hispanic -serving institution of higher education, as defined in Section 502(a) of the Act (20 U.S.C. 1101a)).

(b) Representation.

The offeror represents that it ☐ is / ☐ is not a historically black college or university.
The offeror represents that it ☐ is / ☐ is not a minority institution.

23. FAR 52.227-6 ROYALTY INFORMATION (APRIL 1984)

(a) *Cost or charges for royalties.* When the response to this solicitation contains costs or charges for royalties totaling more than \$250, the following information shall be included in the response relating to each separate item of royalty or license fee:

- (1) Name and address of licensor.
- (2) Date of license agreement.
- (3) Patent numbers, patent application serial numbers, or other basis on which the royalty is payable.
- (4) Brief description, including any part or model numbers of each subcontract item or component on which the royalty is payable.
- (5) Percentage or dollar rate of royalty per unit.
- (6) Unit price of subcontract item.
- (7) Number of units.
- (8) Total dollar amount of royalties.

(b) *Copies of current licenses.* In addition, if specifically requested by the Contracting Officer before execution of the subcontract, the offeror shall furnish a copy of the current license agreement and an identification of applicable claims of specific patents.

24. FAR 52.227 -15 REPRESENTATION OF LIMITED RIGHTS DATA AND RESTRICTED COMPUTER SOFTWARE (DECEMBER 2007)

(a) This solicitation sets forth the Government's known delivery requirements for data (as defined in the clause at 52.227-14, Rights in Data—General). Any resulting subcontract may also provide the Government the option to order additional data under the Additional Data Requirements clause at 52.227-16, if included in the contract. Any data delivered under the resulting subcontract will be subject to the Rights in Data—General clause at 52.227-14 included in this subcontract. Under the latter clause, a Subcontractor may withhold from delivery data that qualify as limited rights data or restricted computer software, and deliver form, fit, and function data instead. The latter clause also may be used with its Alternates II and/or III to obtain delivery of limited rights data or restricted computer software, marked with limited rights or restricted rights notices, as appropriate. In addition, use of Alternate V with this latter clause provides the Government the right to inspect such data at the Subcontractor's facility.

(b) By completing the remainder of this paragraph, the offeror represents that it has reviewed the requirements for the delivery of technical data or computer software and states *[offeror check appropriate block]*—

☐ (1) None of the data proposed for fulfilling the data delivery requirements qualifies as limited rights data or restricted computer software; or

☐ (2) Data proposed for fulfilling the data delivery requirements qualify as limited rights data or restricted computer software and are identified as follows:

(c) Any identification of limited rights data or restricted computer software in the offeror's response is not determinative of the status of the data should a subcontract be awarded to the offeror.

25. FAR 52.230 -1 COST ACCOUNTING STANDARDS NOTICES AND CERTIFICATION (OCTOBER 2008) (OVER \$650,000)

NOTE: THIS NOTICE DOES NOT APPLY TO PURCHASES LESS THAN \$650,000, PURCHASES FOR COMMERCIAL ITEMS, OR PURCHASES AWARDED TO SMALL BUSINESS CONCERNS OR FOREIGN GOVERNMENTS.

Offeror certifies exempt from completing this certification because:

- ☐ Certified as Small Business at FAR 52.219-1 above
- ☐ Solicitation specifically states it is for purchase of commercial item
- ☐ Offeror is a foreign government

This notice is in three parts, identified by Roman numerals I through III.

Offerors shall examine each part and provide the requested information in order to determine Cost Accounting Standards (CAS) requirements applicable to any resultant subcontract.

If the offeror is an educational institution, Part II does not apply unless the contemplated contract will be subject to full or modified CAS coverage pursuant to 48 CFR 9903.201 -2(c)(5) or 9903.201-2(c)(6), respectively.

I. DISCLOSURE STATEMENT --COST ACCOUNTING PRACTICES AND CERTIFICATION

(a) Any subcontract in excess of \$650,000 resulting from this solicitation will be subject to the requirements of the Cost Accounting Standards Board (48 CFR Chapter 99), except for those subcontracts which are exempt as specified in 48 CFR 9903.201-1.

(b) Any offeror submitting a proposal which, if accepted, will result in a contract subject to the requirements of 48 CFR Chapter 99 must, as a condition of contracting, submit a Disclosure Statement as required by 48 CFR 9903.202. When required, the Disclosure Statement must be submitted as a part of the offeror's proposal under this solicitation unless the offeror has already submitted a Disclosure Statement disclosing the practices used in connection with the pricing of this proposal. If an applicable Disclosure Statement has already been submitted, the offeror may satisfy the requirement for submission by providing the information requested in paragraph (c) of Part I of this provision.

CAUTION: In the absence of specific regulations or agreement, a practice disclosed in a Disclosure Statement shall not, by virtue of such disclosure, be deemed to be a proper, approved, or agreed-to practice for pricing proposals or accumulating and reporting contract performance cost data.

(c) Check the appropriate box below:

☐ (1) Certificate of Concurrent Submission of Disclosure Statement.

The offeror hereby certifies that, as a part of the offer, copies of the Disclosure Statement have been submitted as follows: (i) original and one copy to the cognizant Administrative Contracting officer (ACO) or cognizant Federal agency official authorized to act in that capacity (Federal official), as applicable, and (ii) one copy to the cognizant Federal auditor.

(Disclosure must be on Form No. CASB DS -I or CASB DS -2, as applicable. Forms may be obtained from the cognizant ACO or Federal official and/or from the loose -leaf version of the Federal Acquisition Regulation.)

Date of Disclosure Statement: _____
Name and Address of Cognizant ACO or Federal official Where Filed:

The offeror further certifies that the practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the Disclosure Statement.

☐ **(2) Certificate of Previously Submitted Disclosure Statement.**

The offeror hereby certifies that the required Disclosure Statement was filed as follows:

Date of Disclosure Statement: _____
Name and Address of Cognizant ACO or Federal official Where Filed:

The offeror further certifies that the practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the applicable Disclosure Statement.

☐ **(3) Certificate of Monetary Exemption.**

The offeror hereby certifies that the offeror, together with all divisions, subsidiaries, and affiliates under common control, did not receive net awards of negotiated prime contracts and subcontracts subject to CAS totaling more than \$50 million or more in the cost accounting period immediately preceding the period in which this proposal was submitted. The offeror further certifies that if such status changes before an award resulting from this proposal, the offeror will advise the Purchaser Subcontract Manager immediately.

☐ **(4) Certificate of Interim Exemption.**

The offeror hereby certifies that (i) the offeror first exceeded the monetary exemption for disclosure, as defined in (3) of this subsection, in the cost accounting period immediately preceding the period in which this offer was submitted and (ii) in accordance with 48 CFR 9903.202-1, the offeror is not yet required to submit a Disclosure Statement. The offeror further certifies that if an award resulting from this proposal has not been made within 90 days after the end of that period, the offeror will immediately submit a revised certificate to the Government Contracting Officer, in the form specified under subparagraph (c)(1) or (c)(2) of Part I of this provision, as appropriate, to verify submission of a completed Disclosure Statement.

CAUTION: Offerors currently required to disclose because they were awarded a CAS-covered prime contract or subcontract of \$50 million or more in the current cost accounting period may not claim this exemption (4). Further, the exemption applies only in connection with proposals submitted before expiration of the 90 -day period following the cost accounting period in which the monetary exemption was exceeded.

☐ **(5) Certificate of Disclosure Statement Due Date by Educational Institution.**

If the offeror is an educational institution that, under the transition provisions of 48 CFR 9903.202-1(f), is or will be required to submit a Disclosure Statement after receipt of this award, the offeror hereby certifies that (check one and complete):

☐ (i) A Disclosure Statement Filing Due Date of _____ has been established with the cognizant Federal agency.

☐ (ii) The Disclosure Statement will be submitted within the 6 -month period ending months after receipt of this award.

Name and Address of Cognizant ACO or Federal official Where Disclosure Statement is to be Filed:

II. COST ACCOUNTING STANDARDS --ELIGIBILITY FOR MODIFIED CONTRACT COVERAGE

If the offeror is eligible to use the modified provisions of 48 CFR 9903.201 -2(b) and elects to do so, the offeror shall indicate by checking the box below. Checking the box below shall mean that the resultant contract is subject to the Disclosure and Consistency of Cost Accounting Practices clause in lieu of the Cost Accounting Standards clause.

☐ The offeror hereby claims an exemption from the Cost Accounting Standards clause under the provisions of 48 CFR 9903 .201-2(b) and certifies that the offeror is eligible for use of the Disclosure and Consistency of Cost Accounting Practices clause because during the cost accounting period immediately preceding the period in which this proposal was submitted, the offeror received less than \$50 million in awards of CAS -covered prime contracts and subcontracts. The offeror further certifies that if such status changes before an award resulting from this proposal, the offeror will advise the Contracting Officer immediately.

CAUTION: An offeror may not claim the above eligibility for modified contract coverage if this proposal is expected to result in the award of a CAS -covered contract of \$50 million or more or if, during its current cost accounting period, the offeror has been awarded a single CAS -covered prime contract or subcontract of \$50 million or more.

III. ADDITIONAL COST ACCOUNTING STANDARDS APPLICABLE TO EXISTING CONTRACTS

The offeror shall indicate below whether award of the contemplated subcontract would, in accordance with subparagraph (a)(3) of the Cost Accounting Standards clause, require a change in established cost accounting practices affecting existing contracts and subcontracts.

☐ YES ☐ NO

26. CERTIFICATION REGARDING FACILITIES CAPITAL COST OF MONEY

The Subcontractor ☐ proposes, ☐ does not propose facilities capital cost of money as a proposed cost.

27. AUTHORIZED NEGOTIATORS

<u>NAME</u>	<u>TITLE</u>	<u>TELEPHONE</u>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>

28. SYSTEM APPROVALS

Accounting System: Do you have a Government Approved Accounting system? ☐ yes
☐ no

Date of approval, if known: _____
Cognizant Government Audit Agency:

Address: _____

Phone: _____

Property System: Do you have a Government Approved Property Management system? ☐ yes ☐ no

Date of approval, if known: _____
Approving Agency: _____

Purchasing System: Do you have a Government Purchasing system? ☐ yes ☐ no

Date of approval, if known: _____
Approving Agency: _____

29. CONFLICT OF INTEREST CERTIFICATION

The offeror recognizes and endorses the Purchaser's ongoing efforts to comply fully with the Federal procurement laws that govern the Federal work done by Purchaser. The offeror hereby certifies that it knows of no facts or circumstances as a result of its other activities or relationships with other persons or entities that could lead to an organizational conflict of interest as defined in Federal Acquisition Regulation 2.101 and Subpart 9.5 for purposes of this procurement. The offeror recognizes that it has a continuing obligation to examine its other activities and relationships to ensure the work being undertaken or considered will not conflict with or otherwise impair its judgment in performing the subcontract. If at any point during its performance of the subcontract, the offeror becomes aware of any facts or circumstances that could create an organizational conflict of interest, the offeror agrees to immediately disclose such information to Purchaser.

PART II

ADDITIONAL REPRESENTATIONS AND CERTIFICATIONS ENVIRONMENTAL PROTECTION AGENCY SUPPLEMENT

ONLY THE REPRESENTATIONS AND CERTIFICATIONS MARKED [X] AS REQUIRED
NEED TO BE COMPLETED BY THE OFFEROR.

1. EPAAR 1552.209-72 Organizational Conflict of Interest Certification (April 1984)
2. EPAAR 1552.224-70 Social Security Numbers of Consultants and Certain Sole Proprietors and Privacy Act Statement (April 1984)

PART II

ADDITIONAL REPRESENTATIONS AND CERTIFICATIONS ENVIRONMENTAL PROTECTION AGENCY SUPPLEMENT

1. EPAAR 1552.209 -72 ORGANIZATIONAL CONFLICT OF INTEREST CERTIFICATION (APRIL 1984)

The offeror [] is / [] is not aware of any information bearing on the existence of any potential organizational conflict of interest. If the offeror is aware of information bearing on whether a potential conflict may exist, the offeror shall provide a disclosure statement describing the information.

2. EPAAR 1552.224 -70 SOCIAL SECURITY NUMBERS OF CONSULTANTS AND CERTAIN SOLE PROPRIETORS AND PRIVACY ACT STATEMENT (APRIL 1984)

(a) Section 6041 of Title 26 of the U.S. Code requires EPA to file Internal Revenue Service (IRS) Form 1099 with respect to individuals who receive payments from EPA under purchase orders or contracts. Section 6109 of Title 26 of the U.S. Code authorizes collection by EPA of the social security numbers of such individuals for the purpose of filing IRS Form 1099. Social security numbers obtained for this purpose will be used by EPA for the sole purpose of filing IRS Form 1099 in compliance with Section 6041 of Title 26 of the U.S. Code.

(b) If the offeror or quoter is an individual, consultant, or sole proprietor and has no Employer Identification Number, insert the offeror's or quoter's social security number on the following line.

_____.

SAMPLE SUBCONTRACT

SAMPLE SUBCONTRACT AGREEMENT

SUBCONTRACT No.: EPS21501-0023-004 SUBCONTRACT PRICE: PER ORDER BASIS EFFECTIVE DATE:	PRIME CONTRACT No.: EP-S2-15-01 GOVERNMENT CLIENT: ENVIRONMENTAL PROTECTION AGENCY
SUBCONTRACTOR:	GUARDIAN ENVIRONMENTAL SERVICES COMPANY, INC. 70 ALBE DRIVE NEWARK, DE 19702
DESCRIPTION OF WORK: ANALYTICAL SERVICES	
TABLE OF CONTENTS Cover/Signature Page Whereas Clauses Schedule Articles Exhibit A - Statement of Work Exhibit B - Rates for Analytical Services Exhibit C- Sample Work Order Format Exhibit D - Release of Liens Exhibit E - General Provisions	
	Guardian Environmental Services Company, Inc.
Date:	Date:
Signature:	Signature:
Printed Name:	Printed Name:
Title:	Title:

**BASIC ORDERING AGREEMENT
FOR
ANALYTICAL SERVICES
BETWEEN
GUARDIAN ENVIRONMENTAL SERVICES COMPANY, INC.
AND
SELECTED SUBCONTRACTOR**

This Subcontract Agreement, effective XXXXXX, is entered into between Guardian Environmental Services Company, Inc. (here after referred to as "GES" or "Purchaser") and _____ (hereinafter referred to as "Subcontractor").

WHEREAS, GES has entered into Contract No. EP-S2-15-01 (the "Prime Contract") with the Environmental Protection Agency (EPA) to perform Emergency and Rapid Response Services

WHEREAS, the scope of the Prime Contract requires performance of analytical services;

WHEREAS, GES desires Subcontractor to perform certain analytical services in connection with sites throughout EPA Region 2 (NY, NJ, VI, PR) and Subcontractor is willing to perform such services;

WHEREAS, the Subcontractor represents and warrants that it is qualified by registration and experience to perform all of the technical services required under the Subcontract; and

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained, the parties hereto agree as follows:

SCHEDULE ARTICLES

1.0 STATEMENT OF WORK

- 1.1 The Subcontractor shall furnish qualified personnel, material, and services not otherwise provided by GES under the terms of this Basic Order Agreement (BOA) as necessary to perform those analytical services as set forth in Exhibit A, (attached hereto and made a part of this Agreement), in support of GES' obligations under Prime Contract No. EP-S2-15-01 with the EPA. The services to be performed hereunder may include analyses of soil, sludge, water, liquid waste, solid waste and hazardous substances obtained during GES' emergency response activities. Work shall be assigned by the issuance of Work Orders. The BOA is defined to include Work Orders issued hereunder.
- 1.2 Work Orders shall be issued in writing by a duly authorized representative of GES. The Work Order shall identify the GES Task Order under which the work is being performed, describe the services, price, period of performance and other specific requirements of the order, including special flow down provisions from GES' Prime Contract. The Work Order shall also specify whether the work will be performed on a lump sum or time and materials basis and the lump sum or ceiling price for T&M Work Orders.
- 1.3 Work Orders shall be awarded based on Purchaser's determination of the lowest price offered for services on a project specific basis. The prices for services in Exhibit B will be compared for all Subcontractors that have been awarded a BOA. The price

evaluation will be based on the types of analyses required, required turnaround time, the number of samples, and the application of transportation costs and discounts set forth in Exhibit B-4.

The Purchaser will contact the Subcontract with the lowest evaluated price either by phone, facsimile, or email and Subcontractor will have 24 hours to accept the Work Order. Acceptance will include verification that Subcontractor has no conflict of interest, either real or apparent, with the work to be performed. Upon Subcontractor's acceptance, Purchaser will issue a formal Work Order which shall be signed by the Subcontractor and returned to Purchaser. Subcontractor shall not initiate performance until written authorization (which may include facsimile or email transmission) that the Subcontractor may commence work.

If the lowest evaluated Subcontractor is unable or unwilling to perform the requested analytical services, the next lowest evaluated Offeror will be offered the Work Order.

1.4 The following individuals are authorized to place Task Orders for the Purchaser under the Subcontract:

2.0 PERIOD OF PERFORMANCE

The base performance period of this subcontract agreement is from XXXXXXXX through XXXXXXXX with four one-year option periods. Samples are expected to be collected as needed during the course of site operations. The Subcontractor will have five (5) business days from the date notified by Guardian to arrange for the pick-up of the samples from the designated location. GES will indicate the number of samples included in the sample shipment when arranging the sample pick-up date and issuance of a Work Order.

3.0 CONSIDERATION AND PAYMENT

3.1 Work will be authorized and funded on a Task Order Basis. The "minimum" ordering quantity which serves as consideration for this agreement shall be determined by the initial Work Order issued by Purchaser. There is no guaranteed minimum quantity for the base or option periods except as set forth in the initial Work Order under either the base or option period(s).

3.2 Work Orders will establish a ceiling price. Purchaser shall not be obligated to reimburse the Subcontractor for any costs that exceed the ceiling price on individual Work Orders unless the Work Order is modified by a written change order. The rates in Exhibit B are valid for 24 months from the Effective Date of this Subcontract.

3.3 The prices listed in Exhibit B for each analytical method includes the cost of performance of the *Statement of Work* included as Exhibit A to this Subcontract, and includes the cost of processing, reducing, and delivering the following process data:

- a. A copy of the signed chain-of-custody form showing date and time of sample receipt in the laboratory;
- b. A cross-reference of field sample number to laboratory sample number;
- c. A list of the instrument and method detection limits;

- d. Method numbers and descriptions.
- e. A sample data summary (the analytical results for the sample).
- f. A QA/QC summary report based on the requirements outlined in Exhibit A, providing data on confirmation samples, laboratory duplicates, matrix spikes, matrix spike duplicates, initial and continuing instrument calibration checks and detection limit checks. The QA/QC summary report shall also list laboratory control limits and discuss the corrective actions taken whenever laboratory control limits are exceeded.

3.4 Upon delivery and acceptance of work performed under this Subcontract, GES shall pay to the Subcontractor the extended unit price(s) for work as set forth in Exhibit B entitled "Rates for Analytical Services", less any amount to be withheld pending compliance with other Articles of this Subcontract.

4.0 AUDIT, ACCESS TO RECORDS

- 4.1 Subcontractor shall maintain such books, records, documents, and other data, and shall use such accounting procedures and practices, as are necessary to reflect properly all costs claimed to have been incurred or anticipated to be incurred in performance of this Subcontract. GES shall have the right to examine and audit all of the above in Contractor's offices upon reasonable notice to Subcontractor.
- 4.2 Subcontractor shall make available at his office at all reasonable times the materials described in the paragraphs above, for examination, audit, or reproduction for three years after the completion of this Subcontract; unless a longer records retention period is required under other provisions of this Subcontract.
- 4.3 Subcontractor shall maintain its calculations (including quality control protocol results in legible form. A copy of these and all associated documentation shall be available to GES at an agreed upon expense and the originals shall not be disposed of by Subcontractor until 180 days after prior written notice to GES data and associated documents shall not be disposed of without prior authorization from GES.

5.0 INVOICES

- 5.1 The Subcontractor shall be paid on the basis of the number of tests for each test category utilized times the test rate for such test category. The test rate is the base test rate for such test category shown in Exhibit B, less any applicable discounts for the quantity of the specific test on the Subcontractor's Proposal. The discount rate is based on the quantity of a chemical test ordered on a specific Work Order not on the number of samples, which are received at one time by the Subcontractor.

5.2 Invoices shall be prepared and submitted to:

Guardian Environmental Services Company, Inc.
ap@gesoncal.com

Invoices shall contain the following information: Subcontract number, tests category, quantities, unit prices, and extended totals, less any applicable discount for individual tests.

- 5.3 If GES objects to any invoice submitted by Subcontractor, GES shall so advise Subcontractor in writing giving reasons within seven days of receipt of an Invoice. GES shall promptly invoice EPA for Subcontractor's services and shall make timely payment for any portion of the invoice not in dispute. **GES shall pay Subcontractor within ten (10) days from the time GES receives payment from EPA assuming all of the requirements set forth in this agreement have been met.**
- 5.4 The Subcontractor warrants that title to all work covered by any invoice payment shall be, upon receipt of payment therefore from GES, free and clear of any liens, claims, security interests or encumbrances in favor of Subcontractor, any subcontractor, or any person or entity making claim by reason of having provided labor, materials or equipment pursuant to the Subcontract.
- 5.5 The prices in Exhibit B include all applicable Federal, State and local taxes and duties.
- 5.6 The acceptance by the Subcontractor of the final payment shall release GES from all claims and all liability to the Subcontractor for all things done or furnished in connection with the work, and every act of GES and others relating to or arising out of the work, except claims previously made in writing and still unsettled. No payment, however, final or otherwise, shall operate to release the Subcontractor or its sureties or insurers from obligations under the Subcontract including, warranties, and liabilities, as herein provided or as may be imposed by law including but not limited to claims which indemnification is provided for under the provisions of this Subcontract. **The final invoice for payment must include the completed affidavit provided in Exhibit D to this subcontract. Final payment will be withheld pending receipt of this documentation.**
- 5.7 Liquidated Damages. Unit prices shall be reduced by two (2) percent for each day report deliverables exceed the turn-around-time specified on the subcontract Work Order up to a maximum of twenty percent (20%) of the unit price.

The prices in Exhibit B may include a premium for one-week, 72-hour, or 24-hour turnaround time ("expedited turnaround service"). Subcontractor is on notice that any requested expedited service is based on EPA requirements and is necessary for GES to meet its Delivery Order obligations to the EPA. Therefore, time is of the essence in performance of analytical services. In the event Subcontractor is requested to provide expedited turnaround service but fails to meet the requirement, Subcontractor's invoice shall be reduced to the actual level of service provided. For example, if Subcontractor provides results in 48-hours when 24-hour turnaround services was requested Subcontractor shall be reimbursed at the 48-hour turnaround rate. Adjustments shall be taken by Purchaser if the invoice is billed at a premium rate that exceeds actual delivery

time.

6.0 INSPECTION AND ACCEPTANCE

Inspection and acceptance of the services and documentation called for hereunder shall be accomplished by a duly authorized representative of GES as indicated in Section 21 of this subcontract agreement.

7.0 WARRANTY OF SERVICES

- 7.1 Definitions: "Acceptance," as used in this clause, means the act of an authorized representative of GES by which GES assumes for itself, or as an agent of another, ownership of existing and identified supplies, or approves specific services, as partial or complete performance of the Subcontract. "Correction," as used in this clause, means the elimination of a defect.
- 7.2 Notwithstanding inspection and acceptance by GES or any provision concerning the conclusiveness thereof, the Subcontractor warrants that all services performed under this Subcontract will, at the time of acceptance, be free from defects in workmanship, and conform to the requirements of this Subcontract. GES shall give written notice of any defect or nonconformance to the Subcontractor. This notice shall state either (1) that the Subcontractor shall correct or re-perform any defective or nonconforming services, or (2) that GES does not require correction or re-performance.
- 7.3 If the Subcontractor is required to correct or re-perform, it shall be at no cost to GES, and any services corrected or re-performed by the Subcontractor shall be subject to this clause to the same extent as work initially performed. If the Subcontractor fails or refuses to correct or re-perform, GES may, by subcontract or otherwise, correct or replace with similar services and charge to the Subcontractor the cost occasioned to GES thereby, or make an equitable adjustment in the Subcontract price.
- 7.4 If GES does not require correction or re-performance, GES shall make an equitable adjustment in the Subcontract price.

8.0 INDEMNIFICATION

- 8.1. The Subcontractor shall defend, indemnify and hold harmless to the full extent permitted by law, the United States Government and GES, and their employees and agents, from and against any and all claims damages, demands, suits, actions, judgments, liabilities, defaults, or costs and expenses, including court costs and attorney fees (all of which shall collectively be referred to herein as the "Liabilities"), including without limitation any claims or proceedings relating to any hazardous wastes or toxic substances present on each site or location, or involving any violation of, or any liability under the Resource Conservation and Recovery Act ("RCRA"), the Comprehensive Environmental Response Conservation and Liability Act ("CERCLA"), the Occupational Safety and Health Act ("OSHA"), or any other federal, state or local environmental statutes or any amendment thereto, extension thereof, or regulations thereunder, arising out of the Subcontractor's negligent performance and/or willful misconduct hereunder.

Notwithstanding any other provision herein to the contrary, the Subcontractor shall not be obligated to indemnify the United States Government and GES, and their employees and agents for liabilities caused by their negligent acts or omissions.

Subcontractor's and lower tier subcontractors' at any tier, GES' and Government's obligation under this clause shall survive any expiration or termination of this Subcontract or the period of performance hereunder for a period of five (5) years from the date of expiration or termination or completion of the last performance date of any task assignment issued under this Subcontract.

The contents of this paragraph 8.1 shall flow down to all subcontractors.

- 8.2 In addition to the indemnities provided in paragraph 8.1 above, Subcontractor shall defend, indemnify and hold GES harmless from any and all claims, damages, demands, suits, actions, judgments, liabilities, defaults, or costs and expenses arising directly or indirectly out of or related to the following:
 - 8.2.1 Any assertion by the Government that any cost, price or fee included in the Prime Contract should or will be reduced as a result of, or arising out of facts attributable to, cost or pricing data furnished or required to be furnished by the Subcontractor or its lower tier Contractors which was not current, accurate, or complete.
 - 8.2.2 A violation by Subcontractor or any applicable law, rule, or regulation.
 - 8.2.3 Any penalty or fine incurred by or assessed against GES to the extent caused by Subcontractor, its employees, agents, suppliers, or Contractors.
 - 8.2.4 Any failure on the part of Subcontractor to provide any certification or supporting information required hereunder or under applicable laws and regulations.
 - 8.2.5 The provision by Subcontractor of any false or erroneous certifications or supporting information required hereunder or under applicable laws and regulations.
- 8.3 In the event that it is necessary to enforce the indemnity obligations herein, the losing party in any such enforcement action shall pay the prevailing party's court costs and reasonable attorney's fees.

9.0 SUBCONTRACTOR'S INSURANCE

9.1 General

- 9.1.1 The Subcontractor shall provide (from insurance companies acceptable to Guardian) the insurance coverage designated hereinafter at its cost.
- 9.1.2 The Subcontractor shall provide Guardian with any policy changes or revisions or endorsements, which materially alter the policy coverage within 30 days of such change or alternation. This notice shall be sent by registered mail.
- 9.1.3 In case of the breach of any provision of this Article, Guardian, at its option, may take out and maintain, at the expense of the Subcontractor, such insurance as Guardian may deem proper and may deduct the cost of such insurance from any monies which may be due or become due the Subcontractor under this Subcontract.

9.2 Subcontractor Insurance.

The Subcontractor shall not commence Work under this Subcontract until it has obtained all the insurance required hereunder and certification of such insurance has been received by Guardian, nor shall the Subcontractor allow any lower tier subcontractor to start work at a site until insurance specified below has been obtained. The Subcontractor shall provide current insurance certificates throughout the term of the Subcontract. Review of the insurance certificate by Guardian shall not relieve or decrease the liability of the Subcontractor hereunder. Should any of the policies be cancelled before the date thereof, notice will be delivered in accordance with the policy provisions.

9.3 Required Levels of Insurance.

The Subcontractor shall obtain at a minimum the following types of insurance:.

- 9.3.1 Workers' Compensation and occupational disease insurance in amounts needed to satisfy Federal and any State laws applicable to the jurisdiction where work is being performed including any occupational disease statutes;
- 9.3.2 Employer's liability insurance in the minimum amount of \$500,000 per occurrence;
- 9.3.3 Comprehensive or Commercial general liability insurance for bodily injury, death, or loss of or damage to property of third persons in the amount of \$1,000,000 per occurrence;
- 9.3.4 Comprehensive automobile insurance in the amounts of \$1,000,000 Combined Single Limit
- 9.3.5 Pollution Liability insurance in the amount of \$1,000,000 per occurrence.

9.4 Subcontractor's insurance for the liabilities assume by Subcontractor under the indemnity

provision of this Subcontract, Guardian and the Government, its officers, agents and employees shall be named as **additional insured** on Subcontractor's insurance policies required under 9.3.3 and 9.3.4 which shall be primary to any coverage maintained by Guardian. This provision shall be included in any lower tier subcontractor.

- 9.5 Subcontractor shall arrange with its insurers a Waivers of Subrogation in favor of Guardian and its subcontractors and vendors on all insurance policies obtained or maintained for this project.

10.0 PROJECT SAFETY PROGRAM

Subcontractor agrees to cooperate with GES in efforts to prevent injuries to workers employed by either party in carrying on operations covered by this Subcontract and to adopt and place in effect such suggestions as may be offered by GES. GES has a Health and Safety Program for the promotion of the health and safety of all personnel engaged in on-site activities. In the event of an accident or incident that occurs during performance of This Part of the Project, Subcontractor shall notify GES as soon as possible, but not more than 24 hours following accident/incident. Subcontractor shall provide a copy of the Worker's Compensation Employer's First Report of Injury (or equivalent) within 24 hours of injury/illness that occurs during the performance of Work.

11.0 PUBLICITY

- 11.1 The Subcontractor agrees to notify and obtain the written approval of GES prior to releasing any information to any third parties including the news media regarding any work under this Subcontract except as required by law. The Subcontractor shall immediately notify GES of the receipt of a demand by a third party for the disclosure of field test data generated under this Subcontract. This requirement shall be inserted in all lower tier subcontracts issued under this Subcontract.
- 11.2 The Subcontractor agrees not to refer to this Subcontract in commercial advertising in such a manner as to state or imply that the product or service provided is endorsed or preferred by the Government, or considered by the Government to be superior to other products or services. News releases, advertising, and company brochures containing information pertaining to this procurement will not be made without concurrence of the Government which shall be requested by GES. This requirement shall apply to all lower tier subcontractors.

12.0 TECHNICAL DIRECTION

The performance of the work required under this Subcontract shall be subject to the technical direction and surveillance of the Project Manager, Project Chemist or Transportation and Disposal Coordinator. As used herein, "technical direction" is direction to the Subcontractor, which fills in details, requires pursuit of certain lines of inquiry, or otherwise serves to accomplish the statement of work. The technical direction to be valid:

1. Must be issued in writing consistent with the general scope of the work set forth in Exhibit A.

2. May not constitute new assignment of work or changes to the expressed terms, conditions, or specifications incorporated into the Subcontract.
3. Shall not constitute a basis for any increase in the price or extension to the delivery schedule set forth in the Subcontract.

As used herein, surveillance includes, but is not restricted to; the right of prior review and consent by the Project Manager to any Subcontractor initiated internal changes or changes within the terms, conditions, and Exhibit A, Statement of Work. Nothing contained in this Article authorizes the Subcontractor to incur costs in excess of the Work Order Ceiling Price.

13.0 DISPUTES

If there is a dispute over any of the terms of this Agreement, there shall be a meeting of the parties, which shall be attended by a representative of each party who has authority to resolve the dispute. The meeting shall take place within three (3) days from written notice by any party that a dispute exists and shall be a prerequisite to any action, suit or proceeding over any of the terms of the Agreement, except when injunctive relief is necessary.

14.0 CONFIDENTIALITY OF INFORMATION

14.1 To the extent that the work under this Subcontract requires that the Subcontractor be given access to confidential or proprietary business, technical, or financial information belonging to GES or other companies, the Subcontractor shall after receipt thereof, treat such information as confidential and agrees not to appropriate such information to its own use or to disclose such information to third parties unless specifically authorized by GES in writing. The foregoing obligations, however, shall not apply to:

14.1.1 Information which, at the time of receipt by the Subcontractor, is in public domain.

14.1.2 Information which is published after receipt thereof by the Subcontractor or otherwise becomes part of the public domain through no fault of the Subcontractor.

14.1.3 Information which the Subcontractor can demonstrate was in its possession at the time of receipt thereof and was not acquired directly or indirectly from GES or other companies.

14.1.4 Information which the Subcontractor can demonstrate was received by it from a third party who did not require the Subcontractor to hold it in confidence.

14.2 The Subcontractor shall obtain the written agreement, in a form satisfactory to the GES, of each employee permitted access, whereby the employee agrees that he will not discuss, divulge or disclose any such information or data to any person or entity except those persons within the Subcontractor's organization directly concerned with the performance of the Subcontract.

14.3 The Subcontractor agrees, if requested by GES, to sign a Subcontract identical, in all material respects, to the provisions of this Article, with each company supplying

information to the Subcontractor under this Subcontract, and to supply a copy of such Subcontract to GES. From time to time upon request of GES, the Subcontractor shall supply GES itemizing information received as confidential or proprietary and setting forth the company or companies from which the Subcontractor received such information.

14.4 The Subcontractor agrees that upon request by GES it will execute a pre-approved Subcontract with any party whose facilities or proprietary data it is given access to or is furnished, restricting use and disclosure of the data or the information obtained from the facilities. Upon request by GES, such Subcontract shall also be signed by Subcontractor personnel.

14.5 This clause shall flow down to all subcontracts.

15.0 OWNERSHIP OF SUBCONTRACT DOCUMENTS

All portions of the Subcontract Documents, and copies thereof furnished by GES, are the property of GES and/or the Government. They are not to be used in whole or part on any other work without the written authorization of GES. Except for the signed copy of this Subcontract, at the request of GES, all documents are to be returned to GES at the completion of the work. Any use of these materials without authorization by GES will be at the risk of the Subcontractor and without liability or legal expense to GES. The Subcontractor shall defend, indemnify and hold GES harmless from any and all damages of whatsoever kind, including reasonable attorneys' fees, from any and all claims arising from any such use.

16.0 GENERAL AND SPECIAL PROVISIONS

16.1 This Subcontract includes the General Provisions set forth as Exhibit E to this Subcontract.

17.0 ORDER OF PRECEDENCE

In the event of an inconsistency in this Subcontract, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) work Order, (b) Subcontract Schedule Articles; (c) General Provisions in Exhibit E, (d) other Exhibits; and (e) drawings.

If, during the performance of the Work, Subcontractor finds a conflict, error or discrepancy in the Subcontract Documents, Subcontractor shall so report to GES immediately, and before proceeding with the work affected thereby, shall obtain a written interpretation or clarification from GES.

18.0 NOTICES

All correspondence and communication associated with this Subcontract shall be addressed to the following individuals:

Guardian Environmental Services Company, Inc.
70 Albe Drive

Newark, DE 19702
Attn: Janelle Kite
Telephone: (302) 518-1917
Fax: (302) 834-1959
Email: jkite@gesoncall.com

Selected Subcontractor
Subcontractor Address
Subcontractor Address
Subcontractor Point of Contact
Telephone:
Fax:
Email:

19.0 COMMUNICATIONS WITH THE FEDERAL GOVERNMENT

All of the Subcontractor's written or verbal communications to the Federal Government, State or local agencies relative to work under the Subcontract **must** be through GES.

20.0 GENERAL

- 20.1 This Subcontract contains the entire Subcontract between GES and Subcontractor with respect to this procurement and supersedes any other Subcontracts or understandings oral or written. Failure of GES to enforce any of his rights hereunder shall not constitute a waiver of such rights or of any other rights under this Subcontract. Upon execution of this Subcontract by the parties hereto, all proposals, orders, Subcontracts or other understandings, oral or written, in relation to this Subcontract (except as specifically incorporated herein) shall be canceled and superseded by this Subcontract as of its effective date.
- 20.2 Subcontractor agrees that in all matters relating to this Subcontract it shall be acting as an independent contractor and shall assume and pay all liabilities and perform all obligations imposed with respect to the performance of this Subcontract. Subcontractor shall have no right, power or authority to create any obligation, expressed or implied, on behalf of GES and/or the Government and shall have no authority to represent Guardian as an agent.
- 20.3 In the event any article, section, subarticle, paragraph, sentence, clause, or phrase contained in this Subcontract shall be determined, declared, or adjudged invalid, illegal, unconstitutional or otherwise unenforceable, such determination, declaration, or adjudication shall in no manner affect the other articles, sections, subarticles, paragraphs, sentences, clauses, or phrases of this Subcontract, which shall remain in full force and effect.
- 20.4 The headings and titles to provisions of this Subcontract are for convenience only and shall not be deemed to modify or affect the rights and duties of the parties to this Subcontract.
- 20.5 Neither the Subcontract nor any interest therein shall be assigned or transferred by Subcontractor, except as expressly authorized by GES. Subcontractor may not subcontract any work under this Subcontract without advance approval from GES.

- 20.6 Except as otherwise directed by GES, Subcontractor shall procure all necessary permits or licenses and abide by all applicable laws, regulations, and ordinances of the United States and of the State, territory, and political subdivision in which the Subcontract is performed.
- 20.7 In addition to the rights set forth in this Subcontract relating to termination, GES may terminate this Subcontract for default, in whole or in part, by written or telegraphic notice to Subcontractor if (i) the Subcontractor shall become insolvent or make a general assignment for the benefit of creditors, or (ii) a petition under any bankruptcy or similar statute is filed by or against the Subcontractor and not vacated within ten days after it is filed.
- 20.8 Any terms and conditions of this Subcontract intended by their terms to survive the Subcontract completion date, including but not limited to indemnification, record keeping requirements, price reduction based on cost or pricing data, latent and patent defects, warranty and other provisions, shall survive the completion of services under this Subcontract and the termination of this Subcontract for any cause.
- 20.9 This Subcontract shall be governed by and construed in accordance with Federal Government procurement law and, to the extent applicable, laws of the State of Delaware. Subcontractor agrees to comply with the applicable provisions of any Federal, State or local law or ordinance and all orders, rules and regulations issued thereunder.

21.0 MODIFICATION AUTHORITY

Notwithstanding any of the other Articles of this Subcontract, Joseph Alden Cunane, President, Ms. Pam Barr, Director of Contracts, or other duly authorized representatives of the company shall be the only individual(s) authorized to (1) Accept nonconforming work; (2) Waive any requirement of this Subcontract; or (3) Modify any term or condition of this Subcontract.

EXHIBIT A
STATEMENT OF WORK
TO BE ADDED FROM THE RFP

**EXHIBIT B:
RATES FOR SERVICES**

TO BE ADDED FROM PROPOSAL RATES

Exhibit C
GUARDIAN ENVIRONMENTAL SERVICES COMPANY, INC.

SAMPLE WORK ORDER FORMAT

SUBCONTRACT NUMBER: EPS21501-0023-004
GES DELIVERY ORDER NUMBER FROM EPA:
SITE NAME:
SITE ADDRESS:
WORK ORDER NO.:
DATE OF WORK ORDER:
MODIFICATION NUMBER:

To: Subcontractor

Attn:

1. **SCOPE OF SERVICES:** The Subcontractor shall perform the technical effort as set forth in Exhibit A, in support of a Work Assignment under Guardian Environmental Services Company, Inc.'s (GES) Prime Contract EP -S2-15-01 with the Environmental Protection Agency. The anticipated sample types and numbers are::

2. **TIME OF PERFORMANCE:** Work under this Work Order shall begin on _____ and shall be completed no later than _____.

3. **COST:** the cost of services shall not exceed: _____. Services to be provided and rates are set forth in Exhibit A.

4. **AUTHORIZED REPRESENTATIVES:.**

Guardian:

Subcontractor::

5. **SPECIAL CONDITIONS:**
☐ None
☐ See Exhibit B to this Work Order

6. **ISSUED BY:**
GUARDIAN

ACCEPTED BY:
SUBCONTRACTOR

SIGNATURE: _____

SIGNATURE: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

EXHIBIT D
SUBCONTRACTOR'S RELEASE

SUBCONTRACTOR:

SUBCONTRACT NO. EPS21501-0023-004
PRIME CONTRACT NO. EP-S2-15-01

WHEREAS, the above named Subcontractor entered into the referenced Subcontract with Guardian Environmental Services Company, Inc. (GES) for performance by the Subcontractor of the Scope of Work described in Exhibit A of the above referenced Subcontract; and

WHEREAS, under the Subcontract certain monies are not due and payable unto the Subcontractor until all bills for labor, material and other charges arising in the performance of the Scope of Work have been fully paid by the Subcontractor;

NOW THEREFORE, for the purpose of inducing GES to pay over such monies unto the Subcontractor, the Subcontractor does hereby:

1. Warrant and represent to GES that all bills for labor, material, subcontracted work, equipment rental, taxes, insurance, and all other charges arising in connection with the performance of the Scope of Work have been fully paid by or for the Subcontractor, except as listed on attached:
2. Agrees to indemnify and hold harmless GES and the Government from and against all mechanic's liens, claims, demands, penalties, losses, costs, damages and liabilities in any manner arising out of or in connection with any claim by any person, entity or agency for payment for work or labor performed or material furnished pursuant to or in connection with the Subcontract.
3. Release, relive and discharge GES and the Government from all claims for payment (other than unpaid retainage, if any) for work performed under or in connection with the Subcontract or any modification thereto except as attached:

IN WITNESS WHEREOF, this release has been executed this _____ day of _____, 20XX.

By: _____

Title: _____

WITNESS CERTIFICATION

I, _____, certify that I am the Attesting Officer of the corporation named as Contractor in the foregoing release; that _____ who signed said release on behalf of the Contractor was then an authorized Officer of said corporation; that said release was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

Seal

Signature

EXHIBIT E
GENERAL PROVISIONS